

HOUSE RESEARCH

Bill Summary

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Authors: Peppin and others

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Modifies the standards for granting a variance from a county, city, or town zoning control. Provides for similar standards in the county and municipal (city and town) planning and zoning statutes. The term "hardship" is eliminated.

Permits a zoning authority to grant a variance to a zoning control if there are "practical difficulties" in complying with the zoning control. "Practical difficulties" means:

- "the property owner proposes to use the property in a reasonable manner not permitted by an official control;
- the plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- the variance, if granted, will not alter the essential character of the locality."

A variance may be granted only if it is "in harmony with the general purposes and intent" of the ordinance and consistent with the comprehensive plan.

Effective the day after enactment.

This bill is in response to the June 2010, Minnesota Supreme Court decision in *Krummenacher v. City of Minnetonka*, 783 N.W.2d (Minn. 2010) (interpreting "undue hardship" in the municipal variance statute), and an earlier decision relating to counties, *In re Stads vold*, 754 N.W.2d 323 (Minn. 2008) (interpreting the application of "practical difficulties" and "particular hardship" in the county variance statute). In *Krummenacher*, the court held that the city did not have authority to grant the variance if the property owner could put the property to a reasonable use without a variance (part of the "undue hardship" requirement). The court stated that the legislature would have to take action to provide a more flexible variance standard.